

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICROSOFT CORPORATION,

Plaintiff,

v.

RYAN PITYLAK, *et al.*,

Defendants.

CASE NO. C05-0066RSM

ORDER GRANTING MOTIONS  
TO TRANSFER VENUE AND  
DENYING MOTION FOR VENUE  
DISCOVERY

This matter comes before the Court on defendants' separate motions for change of venue (Dkts. #9, #12 and #36), and plaintiff's motion to stay defendants' motions for change of venue and to allow venue-related discovery. (Dkt. #21). Defendants essentially argue that this case should be transferred to the United States District Court for the Western District of Texas, as a related case to *State of Texas v. Ryan Samuel Pitylak, et al.*, Civil Action No. A-05-CA-017-LY. Defendants note that the same defendants are involved in both cases, and the cases are based on the same questions of law and fact. Plaintiff first asks this Court to stay the motion for transfer for 60 days so that it can conduct venue-related discovery, particularly focused on some of the factual assertions contained in defendants' declarations. (Dkt. #21). Plaintiff also presents arguments in opposition to the transfer, asserting that this Court is the proper venue.

Having reviewed defendants' motions for transfer (Dkts. #9, #12 and #36), plaintiff's

1 opposition to that motion (Dkt. #26), defendants' replies in support (Dkts. #28 and #29),  
2 plaintiff's motion for stay and venue discovery (Dkt. #21), defendants' oppositions to that  
3 motion (Dkts. #31, #33 and #35), plaintiff's reply in support (Dkt. #37), the declarations in  
4 support of all of those briefs, and the balance of the record, the Court does hereby find and  
5 ORDER:

6 (1) Plaintiff's Motion to Stay Defendants' Motions to Transfer Venue and for venue  
7 Discovery (Dkt. #21) is DENIED. The Court agrees with defendants that plaintiff's proposed  
8 discovery is not necessary to help the Court decide defendants' motion to transfer venue.  
9 Moreover, a review of the proposed discovery reveals that much of the information plaintiff  
10 seeks goes well beyond venue-related issues. Accordingly, the Court declines to stay defendants'  
11 motions and declines to allow plaintiff to conduct discovery.

12 (2) Defendants' Motions for Change of Venue (Dkts. #9, #12 and #36) is GRANTED.  
13 Under 28 U.S.C. § 1404(a), a district court may transfer any civil action to another district where  
14 it might have been brought. All of the defendants, except for one, reside in or are domiciled  
15 within the Western District of Texas. The non-resident defendant has joined in the motion to  
16 transfer, and agrees that Texas is the appropriate venue. The corporate defendants have their  
17 principal places of business in Texas, their books and records are located in Texas, and the  
18 computer equipment used for those businesses is in Texas. All of the e-mails at issue in this case  
19 were sent from Texas, and the records concerning those e-mails are in Texas. Moreover, plaintiff  
20 is significantly involved in the aforementioned Texas case, which has named the same defendants,  
21 is based on the same facts as the instant case, and involves much of the same evidence as the  
22 instant case, so it does not appear that the change of venue would be an inconvenience to  
23 plaintiff. Furthermore, because the cases involve the application of a new federal statute,  
24 defendants could be subject to conflicting court orders if the cases were tried in separate courts.  
25 Finally, the Court notes that the United States District Court for the Western District of Texas is  
26 quite capable of applying Washington law to the state claims raised in the instant case.

1 Accordingly, the Court finds transfer to that Court appropriate.

2 (3) This case is hereby TRANSFERRED to the Western District of Texas, pursuant to 28  
3 U.S.C. § 1404(a).

4 (4) The Clerk is directed to close this case and transfer all original documents to the  
5 Western District of Texas. The Clerk shall also send a copy of this Order to all counsel of  
6 record.

7 DATED this 12<sup>th</sup> day of April 2005.

8  
9 

10 RICARDO S. MARTINEZ  
11 UNITED STATES DISTRICT JUDGE  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26